

1 STEVEN G. KALAR
2 Federal Public Defender
3 GRAHAM ARCHER
4 Assistant Federal Public Defender
5 55 S. Market Street, Suite 820
6 San Jose, CA 95113
7 Telephone: (408) 291-7753
8 Graham_Archer@fd.org

Counsel for Defendant, DOUGLAS STORMS YORK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

12 UNITED STATES OF AMERICA,) No. CR 15-00226 BLF
13 Plaintiff,) DEFENDANT'S MOTION *IN LIMINE* NO.
14) 5 TO DESIGNATE ALL GOVERNMENT
vs.) WITNESSES AS UNDER DEFENSE
15) SUBPOENA UNLESS RELEASED
16) Pretrial Conference: July 16, 2015
17) Time: 2:00 p.m.
18 DOUGLAS STORMS YORK,) Trial Date: July 20, 2015
19 Defendant.) Honorable Beth Labson Freeman

20 Defendant Douglas Storms York, by and through his counsel, submits the following motion
21 in limine in conformity with the Court's pretrial order and Local Rule 47-2. This motion is based
22 upon the attached memorandum of points and authorities, all files and records in this case, and any
23 further evidence as may be adduced at the hearing on this motion. Mr. York reserves the right to
24 supplement this motion during the course of trial as needed.

25 | //

26 | //

ARGUMENT

I. The Court Should Designate All Government Witnesses as Under Defense Subpoena Unless Released

Government witnesses noticed for trial occasionally are released by the government without informing the defense, and thereafter become unavailable. In order for Mr. York to retain access to these witnesses, he requests the Court order that any released government witnesses be considered under defense subpoena.

8 Indigent defendants such as Mr. York are provided the opportunity to have the government
9 subpoena witnesses on their behalf by the Sixth Amendment and by Fed. R. Crim. P. 17(b). United
10 States v. Barker, 553 F.2d 1013, 1019 (6th Cir. 1997). In addition, this Court has the inherent power
11 to subpoena witnesses on behalf of indigents. See Lloyd v McKendree, 749 F.2d 705, 706-07 (11th
12 Cir. 1985); Link v. Wabash, 370 U.S. 626, 630 (1962) (“The inherent powers of the federal courts
13 are governed not by rule or statute but by the control necessarily vested in courts to manage their
14 own affairs so as to achieve the orderly and expeditious disposition of cases.”). To safeguard against
15 the loss of vital witness testimony and to ensure that this indigent defendant is provided all Fifth and
16 Sixth Amendment rights, Mr. York requests that the Court exercise its inherent power to order that
17 any released government witnesses be considered under defense subpoena for the duration of the
18 trial.

19 |||

20 |||

21 |||

22 |||

23 |||

24 //

25

26

CONCLUSION

2 For the foregoing reasons, and for such other reasons as may appear at the hearing on this
3 motion, Mr. York respectfully requests that the Court grant his motions, and accord such other relief
4 as this Court deems just. Mr. York requests leave to file further motions as may be necessary.

5

6 || Dated: July 2, 2015

Respectfully submitted,

7

8 STEVEN C. KLEIN
Federal Public Defender

9

10 b7
GRAHAM ARCHER
Assistant Federal Public Defender

15

14

15

16

17

18

19

30

1

1

之十

25

26